



## Service of Process Transmittal Summary

**TO:** KIM LUNDY- EMAIL  
Walmart Inc.  
GLOBAL GOVERNANCE/CENTRAL INTAKE, 2914 SE I STREET MS#0200  
BENTONVILLE, AR 72712-3148

**RE:** Process Served in Ohio

**FOR:** WALMART INC. (Domestic State: DE)

### ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

<b>TITLE OF ACTION:</b>	Re: SMITH ORVILLE // To: WALMART INC.
<b>DOCUMENT(S) SERVED:</b>	Summons, Return, Complaint, Jury Demand
<b>COURT/AGENCY:</b>	Montgomery County Court of Common Pleas, OH Case # 2023CV03633
<b>NATURE OF ACTION:</b>	Personal Injury - Slip/Trip and Fall - 07/31/2021, Store #3783, at 3465 York Commons Boulevard, Dayton, Ohio 45414
<b>PROCESS SERVED ON:</b>	C T Corporation System, Columbus, OH
<b>DATE/METHOD OF SERVICE:</b>	By Traceable Mail on 07/13/2023 postmarked on 07/12/2023
<b>JURISDICTION SERVED:</b>	Ohio
<b>APPEARANCE OR ANSWER DUE:</b>	Within 28 days after receipt, exclusive of the day of receipt (Document(s) may contain additional answer dates)
<b>ATTORNEY(S)/SENDER(S):</b>	Loukesha Q. Brooks Wright & Schulte, LLC 130 W. Second Street, Suite 1600 Dayton, OH 45402 937-222-7477
<b>ACTION ITEMS:</b>	CT has retained the current log, Retain Date: 07/13/2023, Expected Purge Date: 07/23/2023  Image SOP
<b>REGISTERED AGENT CONTACT:</b>	C T Corporation System 4400 Easton Commons Way Suite 125 Columbus, OH 43219 877-564-7529 MajorAccountTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT



**CT Corporation**  
**Service of Process Notification**

07/13/2023

CT Log Number 544276290

disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

ORIGIN ID: DAYA (937) 496-7623  
 MIKE FOLEY  
 CLERK OF COURTS  
 41 N PERRY ST  
 ROOM 104  
 DAYTON, OH 45422  
 UNITED STATES US

SHIP DATE: 12JUL23  
 ACTWGT: 0.80 LB  
 CAD: 110873545/WSX13100

BILL SENDER

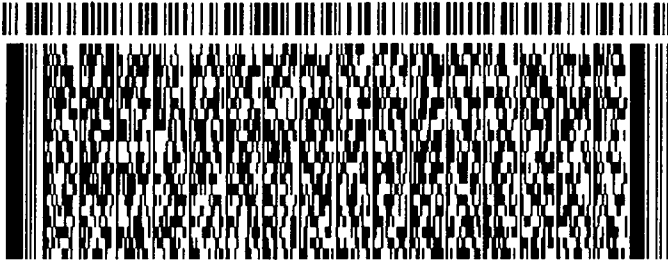
TO

WALMART INC.  
 CO CT CORPORATION SYSTEM  
 4400 EASTON COMMONS WAY 125  
 COLUMBUS OH 43219

(937) 496-7623  
 INV:  
 PO:

REF: 2023 CV 03633

DEPT:



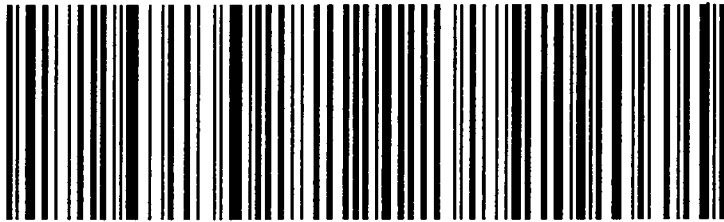
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MON - 17 JUL 4:30P  
 EXPRESS SAVER

TRK# 7810 4518 5456  
 0201

DSR  
 43219  
 OH-US LCK

ST OSUA



After printing this label:

**CONSIGNEE COPY - PLEASE PLACE IN FRONT OF POUCH**

1. Fold the printed page along the horizontal line.
2. Place label in shipping pouch and affix it to your shipment.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on fedex.com. FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our Service Guide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

**IN THE COURT OF COMMON PLEAS, MONTGOMERY COUNTY OHIO  
CIVIL DIVISION**

**SUMMONS**

**PLAINTIFF**

ORVILLE SMITH

**VS**

**DEFENDANT**

WALMART SUP0ERCENTER 3783 et al

**CASE NUMBER**

2023 CV 03633

**ARTICLE NUMBER**

781045185456

**TO THE FOLLOWING NAMED DEFENDANT:**

WALMART INC.

CO CT CORPORATION SYSTEM

4400 EASTON COMMONS WAY 125

COLUMBUS OH 43219

You have been named a Defendant or Respondent in a complaint filed in Montgomery County Court of Common Pleas, Dayton, Ohio. **A copy of the Complaint is attached.**

**BY:**

ORVILLE SMITH

38 NEAL AVE

DAYTON, OH 45405

**PLAINTIFF ATTORNEY:**

LOUKESHA Q BROOKS

130 W. SECOND STREET

SUITE 1600

DAYTON, OH 45402 1289

You are hereby summoned and required to serve upon the Plaintiff's attorney, or upon the Plaintiff, if the Plaintiff does not have an attorney, a copy of an **Answer to the Complaint** within **28 days after receipt of this summons, exclusive of the day you received the summons**. Your original **Answer** must be filed with the Clerk of Court's Office **within 3 days** after you serve the Plaintiff's attorney or Plaintiff.

**If you fail to appear and defend, Judgment by Default may be rendered against you granting Plaintiff(s) the relief demanded in the Complaint.**

**NOTE:**

If you are represented by an attorney, your attorney is required to electronically file your Answer through the Court's authorized electronic filing system. See Montgomery County Common Pleas Court Loc. R. 1.15, Electronic Filing of Court Documents, for requirements of electronic filing. Local rules can be accessed at [www.montcourt.oh.gov](http://www.montcourt.oh.gov). Service of the Answer will be made upon the Plaintiff's attorney through the Court's authorized electronic filing system. If the Plaintiff does not have an attorney, your attorney is required to serve a paper copy of your Answer to the Plaintiff.

If you are representing yourself (appearing pro se), you have the option to file your Answer in paper OR through the Court's authorized electronic filing system (See Loc. R. 1.15, Electronic Filing of Court Documents). Local rules can be accessed at [www.montcourt.oh.gov](http://www.montcourt.oh.gov). If you file your Answer in paper, you are required to serve a paper copy of your Answer to the Plaintiff's Attorney or the Plaintiff. If you file your Answer electronically, service of the Answer will be made upon the Plaintiff's attorney through the Court's authorized electronic filing system. If the Plaintiff does not have an attorney, you are required to serve a paper copy of your Answer to the Plaintiff.



**/s/ MIKE FOLEY, ISSUED Wednesday, July 12, 2023**

**MIKE FOLEY, CLERK  
COURT OF COMMON PLEAS  
MONTGOMERY COUNTY, OHIO**

**PREPARED ELECTRONICALLY**

In The Court Of Common Pleas, Montgomery County Ohio  
Civil Division

RETURN OF SERVICE SUMMONS

PLAINTIFF

ORVILLE SMITH

VS

DEFENDANT

WALMART SUP0ERCENTER 3783 et al

CASE NUMBER

2023 CV 03633

ARTICLE NUMBER

781045185456

TO THE FOLLOWING NAMED PARTY:

WALMART INC.

CO CT CORPORATION SYSTEM

4400 EASTON COMMONS WAY 125

COLUMBUS, OH 43219

RETURN OF SERVICE(PERSONAL)

FEES

SERVICE \$

MILEAGE

TOTAL \$

DATE

I received the document on \_\_\_\_\_, 2023, at \_\_\_\_ o'clock \_\_\_\_ M. and made personal service of it upon \_\_\_\_\_ by locating him/them and tendering a copy of the document and accompanying documents, on \_\_\_\_\_, 2023.

By \_\_\_\_\_

RETURN OF SERVICE(RESIDENCE)

FEES

SERVICE \$

MILEAGE

TOTAL \$

DATE

I received the document on \_\_\_\_\_, 2023, at \_\_\_\_ o'clock \_\_\_\_ M. and made residence service of it upon \_\_\_\_\_ by leaving, at his/their usual place of residence with \_\_\_\_\_ a person of suitable age and discretion then residing therein a copy of the complaint and accompanying documents, on \_\_\_\_\_, 2023.

By \_\_\_\_\_

RETURN OF SERVICE(FAILURE OF SERVICE)

FEES

SERVICE \$

MILEAGE

TOTAL \$

DATE

I received the document on \_\_\_\_\_, 2023, at \_\_\_\_ o'clock \_\_\_\_ M. with instructions to make personal/residence service upon \_\_\_\_\_ and I was unable to serve a copy documents upon him/them for the following reasons:

By \_\_\_\_\_

ELECTRONICALLY FILED  
 COURT OF COMMON PLEAS  
 Wednesday, July 12, 2023 11:52:29 AM  
 CASE NUMBER: 2023 CV 03633 Docket ID: 650460651  
 Mike Foley  
 CLERK OF COURTS MONTGOMERY COUNTY OHIO

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
 CIVIL DIVISION**

**ORVILLE SMITH**

38 Neal Avenue  
 Dayton, Ohio 45405

Plaintiff,

vs.

**WAL-MART SUPERCENTER #3783**

c/o Walmart, Inc.  
 CT Corporation System  
 4400 Easton Commons Way, Suite 125  
 Columbus, Ohio 43219

and

**WALMART, INC.**

c/o CT Corporation System  
 4400 Easton Commons Way, Suite 125  
 Columbus, Ohio 43219

and

**JOHN and/or JANE DOE EMPLOYEE**

address unknown

and

**XYZ CORPORATION**

address unknown

Defendants.

CASE NO.:

JUDGE:

**PLAINTIFF'S COMPLAINT  
 FOR PERSONAL INJURY WITH  
 JURY DEMAND ENDORSED  
 HEREON**

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Now comes Plaintiff Orville Smith, by and through Counsel, to provide the Court with her Complaint for Personal Injury.

1. The Plaintiff, Orville Smith, is an adult citizen of the State of Ohio and a resident of Montgomery County.
2. Upon information and belief, Defendant, Wal-Mart Supercenter #3783, at all times relevant, was a company registered with the Ohio Secretary of State to do business in the state of Ohio, conducted business in the state of Ohio, is subject to jurisdiction in the state of Ohio, and has committed a tort in the state of Ohio. Defendant was the

owner/operator of the Wal-Mart Supercenter #3783, located at 3465 York Commons Boulevard, Dayton, Ohio 45414.

3. Upon information and belief, Defendant, Walmart, Inc., at all times relevant, was a company registered with the Ohio Secretary of State to do business in the state of Ohio, conducted business in the state of Ohio, is subject to jurisdiction in the state of Ohio, and has committed a tort in the state of Ohio. Defendant was the owner/operator of the Wal-Mart Supercenter, located at 3465 York Commons Boulevard, Dayton, Ohio 45414.
4. Plaintiff is unaware of the true names, identities and capacities, whether individual, corporate, associate, or otherwise, of those defendants sued herein as John Doe, Jane Doe, and XYZ Corporation and will amend this Complaint so as to more specifically set forth the names and identities of the Doe defendants when they have been determined.
5. Upon information and belief, Plaintiff alleges that each Doe defendant and corporation is legally responsible for the acts and events complained herein and that Plaintiff's injuries, losses and damages were proximately caused by the negligence, fault, wrongful acts and/or legal responsibility of aforementioned defendants.
6. Upon information and belief, Plaintiff alleges that Defendants are legally responsible for the acts and events complained herein and that Plaintiff's injuries, losses and damages were proximately caused by the negligence, fault, wrongful acts and/or legal responsibility of aforementioned defendants.

### COUNT I

7. Plaintiff reincorporates all prior paragraphs as though fully rewritten herein.
8. On or about July 31, 2021, Plaintiff Orville Smith was a business invitee at the subject site when, while walking through the facility, and despite taking appropriate reasonable care, Plaintiff slipped on a wet substance, causing him to fall to the ground where he suffered injuries to his head, neck, back, and leg.
9. Upon information and belief, Defendants Wal-Mart Supercenter #3783 and/or Walmart, Inc. and/or XYZ Company is the owner and/or has a majority interest in the subject property.
10. Plaintiff, at all times mentioned, was an invitee of the Defendants Wal-Mart Supercenter #3783 and/or Walmart, Inc. and/or XYZ Company and therefore Defendants Wal-Mart Supercenter #3783 and/or Walmart, Inc. and/or XYZ Company owed Plaintiff the duty of providing a reasonably safe and maintained environment, including walking areas, for all persons lawfully on said premises, including the Plaintiff.
11. At the aforesaid time and place, Defendants, by and through their agents, servants and/or employees, disregarding said duty caused the common area to remain unsafe for use, and as a result of this dangerous condition, the Plaintiff slipped and fell.



12. At the aforesaid time and place, Defendants, as the maintainer of the aforementioned premises, either individually or by and through their agents, servants and/or employees acted with less than reasonable care and was thereby guilty of one or more of the following careless and negligent acts and/or omissions:
  - a. Improperly operating, managing, maintaining and controlling its premises in failing to properly maintain the aforementioned walking and common areas;
  - b. Failure to provide slip guards and/or slip resistant surfaces in the aforementioned walking areas of the premises for an unreasonable length of time.
  - c. Failure to warn the Plaintiff and other persons lawfully on said premises of the dangerous condition when Defendants knew or should have known in the exercise of ordinary care that said warning was necessary to prevent injury to the Plaintiff.
  - d. Failure to make a reasonable inspection of its premises when it knew or in the exercise of ordinary care should have known that said inspection was necessary to prevent injury to the Plaintiff and others lawfully on said premises.
  - e. Allowed the aforementioned premises to remain in a dangerous condition, making the walking areas, unfit for passage, for an unreasonable length of time.
  - f. Caused, created, and/or allowed said walking areas, to become unsafe for passage for an unreasonable length of time.
  - g. Failure to inspect or maintain walking areas in a manner such as to avoid the creation of unsafe conditions.
  - h. Was otherwise careless and negligent in the operation of its premises.
13. Defendants Wal-Mart Supercenter #3783 and/or Walmart, Inc. and/or XYZ Company knew or should have known that a hazardous condition existed at the time of Plaintiff's injury.
14. Defendants Wal-Mart Supercenter #3783 and/or Walmart, Inc. and/or XYZ Company neither put Orville Smith, or any other person, on notice, nor remedied the deficiency.
15. Defendants Wal-Mart Supercenter #3783 and/or Walmart, Inc. and/or XYZ Company's behavior was negligent.
16. As a proximate result of Defendants Wal-Mart Supercenter #3783 and/or Walmart, Inc. and/or XYZ Company's negligence, Plaintiff suffered injuries and damages including but not limited to, the following:
  - a. Severe injuries, including but not limited to: injuries to his head, neck, back, and leg;

- b. An overall disruption of life; great pain and suffering, both physical and emotional; the loss of ability to perform usual functions; and the injuries will continue to cause pain and suffering in the future; and
  - c. Reasonable and necessary medical expenses in an amount yet to be determined, as well as further reasonable and necessary medical expenses to be incurred in the future including but not limited to physical therapy, consultations, and appliances.
17. The aforesaid negligence of Defendants was the direct and proximate cause of the injuries and damages to Plaintiff Orville Smith.

**WHEREFORE**, Plaintiff Orville Smith demands judgment against Defendants, jointly and/or severally, for an amount in excess of \$25,000.00, plus interest, punitive damages, attorney's fees and the costs of this action.

**COUNT II**  
**(Respondeat Superior, Negligent Training, Retention, and Supervision)**

18. Plaintiff reincorporates all prior paragraphs as though fully rewritten herein.
19. Defendants are registered companies doing business in the County of Montgomery, located within the State of Ohio.
20. Defendant, as owner and employer of John and/or Jane Doe employee(s) is responsible for the actions of its employees.
21. Defendant failed to properly train and supervise John and/or Jane Doe employee as stated under the doctrine of *respondeat superior*, which resulted in the injuries sustained by Orville Smith.
22. Defendants negligently hired, and/or were negligent in their training and/or supervision practices.

**WHEREFORE**, Plaintiff Orville Smith demands judgment against Defendants, jointly and/or severally, for an amount in excess of \$25,000.00 plus interest, attorney's fees and the cost of this action.

**COUNT III**  
**(Emotional Distress)**

23. Plaintiff reincorporates all prior paragraphs as though fully rewritten herein.
24. Defendants knew, or should have known, failure to exercise due care in the hiring, training, and/or supervision of its employees and of maintaining walking areas, would expose Plaintiff and other invitees to harm, and cause severe emotional distress.

**WHEREFORE**, Plaintiff Orville Smith demands judgment against Defendants, jointly and/or severally, in an amount in excess of \$25,000.00 plus interest, attorney's fees and the cost of this action.

**COUNT IV**  
**(Strict Liability)**

25. Plaintiff reincorporates all prior paragraphs as if fully rewritten herein.
26. Defendants knew that the facility's walking areas would be used by members of the public.
27. The premises were unsafe in that they were not properly maintained, and were without any warning signs of hazardous conditions.
28. At all times relevant, Plaintiff had no reason to know of the existence of the above-described hazards and there were no signs to indicate that the walking areas were unsafe.
29. As a direct and proximate result of the wet walking area, Plaintiff suffered injuries and damages along with severe mental distress and overall impairments to his health; strength; and activity.
30. As a result of the aforementioned injuries, Plaintiff has suffered general and special damages the amount and nature of which will be established at the time of trial.

**WHEREFORE**, Plaintiff Orville Smith demands judgment against Defendants, as to Count IV, jointly and/or severally, for an amount in excess of \$25,000.00 plus interest, attorney's fees and the cost of this action.

Respectfully Submitted,

/s/Kesha Q. Brooks

Robert L. Gresham, #0082151

Michael L. Wright, #0067698

Kesha Q. Brooks, #0095424

Wright & Schulte, LLC

130 W. Second Street, Suite 1600

Dayton, Ohio 45402

PH: (937) 222-7477

FA: (937) 222-7911

[rgresham@yourohiollegalhelp.com](mailto:rgresham@yourohiollegalhelp.com)

[mwright@yourohiollegalhelp.com](mailto:mwright@yourohiollegalhelp.com)

[kbrooks@yourohiollegalhelp.com](mailto:kbrooks@yourohiollegalhelp.com)

Attorneys for Plaintiff

**JURY DEMAND**

Now comes Plaintiff, by and through counsel, and hereby demands a trial by jury on all issues of this matter.

/s/Kesha Q. Brooks

Michael L. Wright, Esq.

Robert L. Gresham, Esq.

Kesha Q. Brooks, Esq.

Attorneys for Plaintiff